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14
15 **UNITED STATES DISTRICT COURT**
16
17 **NORTHERN DISTRICT OF CALIFORNIA**

18 JANE DOE, INDIVIDUALLY AND ON
19 BEHALF OF A CLASS OF SIMILARLY
20 SITUATED INDIVIDUALS,

21 Plaintiff,

22 vs.

23 EATING RECOVERY CENTER LLC,

24 Defendant.

25 Case No: 3:23-cv-05561-VC

26 **FIRST AMENDED COMPLAINT FOR:**

- 27 (1) Violation California Invasion of Privacy
28 Act, § 631;
(2) Violation of California's Confidentiality of
Medical Information Act, § 56.10(a);
(3) Violation of California's Confidentiality of
Medical Information Act, § 56.10(d);
(4) Violation of California's Confidentiality of
Medical Information Act, § 56.101;
(5) Violation of California's Unfair
Competition Law, Cal. Bus. & Prof. Code §
17200, et seq.; and
(6) Unjust Enrichment.

29 **CLASS ACTION**

30 **DEMAND FOR JURY TRIAL**

1 Plaintiff Jane Doe brings this class action complaint on behalf of herself and all others
 2 similarly situated (the “Class Members”) against Eating Recovery Center LLC (“ERC”). The
 3 allegations contained herein are based on Plaintiff’s personal knowledge of facts pertaining to
 4 herself and upon information and belief, including further investigation conducted by Plaintiff’s
 5 counsel:

6 **I. SUMMARY OF THE CASE**

7 1. This is a class action lawsuit brought on behalf of all California citizens who had
 8 their personal communications and/or medical information unlawfully shared with, disclosed to,
 9 or intercepted by Meta Platforms Inc. (“Meta”) due to ERC imbedding the Meta Pixel on its
 10 websites.

11 2. There are few pieces of information more personal, sensitive, and valuable than a
 12 person’s medical information. This is particularly true when medical information pertains to
 13 subjects like eating disorders or mental disorders. As a result, such information is vigorously
 14 protected by state and federal laws.

15 3. ERC is a health care provider offering virtual and in-person treatment for eating
 16 disorders and mental disorders. Through its websites, eatingrecoverycenter.com and
 17 pathlightbh.com, users can access, schedule, or learn about these services and do things like
 18 take diagnostic quizzes or research symptoms, conditions, and treatment through the internal
 19 search bar.

20 4. When conducting many of these actions, users communicate private and medical
 21 information to ERC and reasonably assume ERC protects this information. Not only is ERC
 22 legally obligated to protect this information, but it also assures users their information is “100%
 23 confidential” and states in its Privacy Policy that it will “NEVER share or sell” users’ personal
 24 information with third parties.¹

25 5. Unfortunately, this is false. Unbeknownst to users, ERC has imbedded the Meta
 26 Pixel on its websites, which is a snippet of code that enables Meta to intercept, read, and learn

28 ¹ <https://www.eatingrecoverycenter.com/>; <https://www.eatingrecoverycenter.com/privacy-policy>.

1 the contents or meaning of communications between users and ERC in real time. As a result,
2 when users submit personal and/or medical information on ERC's websites, the Pixel transmits
3 this information to Meta. For ERC users, this information includes: (i) the medical treatment
4 users are receiving or considering; (ii) answers to diagnostic quizzes, which includes
5 information about users' conditions and symptoms; (iii) locations where users are obtaining or
6 considering receiving treatment, which indicates medical conditions and types of treatment; (iv)
7 support groups for which users register, which indicates medical conditions and types and
8 location of treatment; and (v) all information entered into the websites' internal search bar,
9 which can indicate medical conditions and types of treatment. Meta can use information
10 intercepted by the Pixel, provided by ERC, and/or already possessed by Meta to match the
11 private and medical information to specific individuals.

12 6. The transmission of information through the Pixel is instantaneous. Meta often
13 receives the information even before ERC. The existence of the Pixel and transmission of
14 information is intentionally invisible and occurs without obtaining consent by ERC users.

15 7. ERC and Meta engage in this unlawful disclosure of data for pecuniary reasons.
16 In exchange for sending information to Meta through the Pixel, ERC receives analytics and
17 other information from Meta that enables it to more effectively advertise its services, increasing
18 revenue as a result. In exchange for improving ERC's marketing efforts, Meta receives
19 confidential and highly valuable data for tens of thousands of individuals, which it uses to
20 improve advertising profiles for individuals and increase the value of its ad space and ad
21 services.

22 8. Through these unlawful actions, ERC has violated California's Invasion of
23 Privacy Act, Cal. Penal Code § 631; has violated California's Confidentiality of Medical
24 Information Act, Cal. Civil Code §§ 56.10(a) and (d), and 56.101; has violated California's
25 Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, et seq., and has been unjustly
26 enriched. These violations have harmed Plaintiff and Class Members, and Plaintiff seeks to
27 remedy these harms through this action. Plaintiff seeks statutory damages, compensatory
28

1 damages, punitive damages, and injunctive relief to enjoin ongoing unlawful data disclosures
 2 and alert users' whose personal and/or medical information has been intercepted by Meta.

3 II. JURISDICTION AND VENUE

4 9. The Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. §
 5 1332(d), because the amount in controversy for the Class exceeds \$5,000,000, exclusive of
 6 interest and costs, there are more than 100 putative Class Members (defined below), and
 7 minimal diversity exists because a significant portion of putative Class Members are citizens of
 8 a state different than ERC.

9 10. The Court has personal jurisdiction over ERC because ERC transacts substantial
 10 business in this District and has conducted systematic and continuous activities in California,
 11 including operating two clinics in California, conducting virtual services for thousands of
 12 California residents, and having an estimated 100,000+ unique California residents visit its
 13 websites annually.

14 11. ERC has purposefully directed conduct at California and its residents and there is
 15 a substantial nexus between that conduct and the claims asserted herein that makes the exercise
 16 of jurisdiction over ERC reasonable.

17 12. ERC directly and specifically markets to California residents through its
 18 websites, operating their websites in a manner that is expressly aimed at California and
 19 encourages California residents to visit and conduct commercial and other activity via its
 20 websites. Through these marketing efforts, ERC actively appealed to and profited from
 21 California residents.

22 13. ERC's websites include several webpages specifically marketing to California
 23 residents, including the following:²

28 ² <https://www.eatingrecoverycenter.com/resource/california-eating-disorder-treatment>.

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Eating Recovery Center **California** -
Virtual Programs

- 📍 California (Virtual Programming)
- 📞 866-492-1321
- 👤 Who we treat: Adult, Child and Adolescent
- ⭐ Level of Care: Virtual Intensive Outpatient
- ⚡ Conditions We Treat: Eating Disorders, Binge Eating Disorder

Get Help Now

Schedule An Assessment 866-492-1321

100% Confidential

Eating Disorder treatment in **California**: Download

May 11, 2022

Resource Download

Download

With evidence-based treatment and the ability to treat the most complex cases, Eating Recovery Center (ERC) offers inclusive treatment for all ages, body shapes and sizes, gender identities and expressions with eating disorders and co-occurring conditions in **California**. Our specialized programs at partial hospitalization, intensive outpatient and virtual intensive outpatient levels of care provide patients with the tools and support they need to create the perspective and behavior change for long-lasting recovery.

Download this free resource for more information.

1 Eating Recovery At Home is the leading virtual intensive
 2 outpatient program (IOP) for eating disorders. This
 3 comprehensive program is available to patients living in
4 California. As effective as in-person treatment, the
 5 program fits seamlessly into your everyday life. Through
 6 ongoing connection and intensive support, you'll learn to
 7 navigate life's stressors and build resilience.

8 Our licensed multidisciplinary team members use a
 9 proven, evidence-based curriculum to treat eating
 10 disorders in children, teens and adults—and have had
 11 extensive training in telebehavioral health ethics and
 12 service delivery to provide effective, ethical treatment
 13 and group collaboration in a virtual setting.

14 This program is an ideal choice for anyone who needs
 15 additional outpatient support, a more flexible and
 16 convenient treatment option, is reluctant to receive
 17 treatment in-person or is ready to step down from partial
 18 hospitalization program (PHP) treatment.

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What You Can Expect

- Coverage by most major commercial insurers
- Same proven treatment offered on-site from the comfort of home
- Specialized experienced care team includes licensed therapist, registered dietitian, consulting physician and care coordinator
- Group therapy sessions with the same small peer group and clinical team provides sense of belonging
- Extensive family involvement, education and support
- Robust alumni network and resources available post-treatment
- HIPAA-secure technology in a safe, confidential environment

[Learn About Virtualcare](#)

Eating Disorder Treatment Programs in California

Eating Recovery Center offers multiple levels of care for eating disorder treatment in **California**. With treatment centers located in Irvine and Sacramento, we provide in-person intensive outpatient and partial hospitalization programs. Virtual intensive outpatient treatment is available statewide.

In **California**, we provide evidence-based treatment and aftercare support for anorexia nervosa, avoidant/restrictive food intake disorder (ARFID), binge eating disorder, bulimia nervosa, compulsive overeating, diabulimia and other specific feeding and eating disorders (OSFED) for adults, adolescents and children of all genders, age 10 and up.

Struggling with an eating disorder?
One conversation can make all the difference. Connect with us today.

Get Help Now **866-468-7925**

100% Confidential

Condition	Level of Care	Who we treat
- Any -	- Any -	- Any -


Eating Recovery Center California - Virtual Programs
📍 Virtual Programming
📞 866-438-8756
 Who we treat: Adult, Child and Adolescent
 Level of Care: Virtual Intensive Outpatient
 Conditions We Treat: Eating Disorders, Binge Eating Disorder


Eating Recovery Center Irvine
📍 114 Pacifica #450, Irvine, CA 92618
📞 949-504-4673
 Who we treat: Adult, Child and Adolescent
 Level of Care: On-site Intensive Outpatient, Partial Hospitalization
 Conditions We Treat: Eating Disorders, Orthorexia, Anorexia Nervosa, ARFID, Atypical Anorexia, Bulimia Nervosa, Compulsive Overeating, Diabulimia, OSFED

Treatment & Services Conditions Programs by State Insurance & Admissions Treatment at Home Education & Support Groups


Eating Recovery Center Sacramento
📍 3610 American River Dr, Suite 140, Sacramento, CA 95864
📞 916-574-1000
 Who we treat: Adult, Child and Adolescent
 Level of Care: On-site Intensive Outpatient, Partial Hospitalization
 Conditions We Treat: Eating Disorders, Orthorexia, Anorexia Nervosa, ARFID, Atypical Anorexia, Bulimia Nervosa, Compulsive Overeating, Diabulimia, OSFED

1 14. In some instances, ERC advertises its California-based services while
 2 simultaneously requesting personal and medical information that will be sent to Meta via the
 3 Pixel. For example, the following screenshot is a webpage on ERC's website advertising virtual
 4 outpatient services for eating disorders to California residents and simultaneously requesting
 5 confidential private and medical information concerning users' conditions and symptoms:



I am reaching out...
 For Me For a Friend or Family Member

First Name: _____

Last Name: _____

Email: _____

Phone: _____

Ok to leave a voicemail? Yes No

State:

Type of Insurance:

Condition:

Do you make yourself sick because you feel uncomfortably full?
 Always Sometimes Never Unsure

Do you worry you have lost control over how much or how little you eat?
 Always Sometimes Never Unsure

Do you ever hide your eating habits from others?
 Always Sometimes Never Unsure

Do you believe yourself to be fat when others say you are too thin?
 Always Sometimes Never Unsure

Do you ever exercise to compensate for what you have eaten?
 Always Sometimes Never Unsure

Have you recently lost or gained weight?
 Yes No Unsure

Would you say that food dominates your life?

1 15. While the above screenshots were taken from ERC's eating disorder website
 2 (eatingrecoverycenter.com), its mental health disorder website (pathlightbh.com), includes
 3 virtually identical marketing materials specifically targeting California residents.³

4 16. ERC markets directly and continuously to individual California residents after
 5 learning they are California residents. For example, after Plaintiff provided information to ERC
 6 that demonstrated she was a California resident, ERC sent (and continues to send) Plaintiff
 7 targeted emails and Facebook ads directing her to ERC's websites, including through links to
 8 ERC's homepages, sign-ups for ERC support groups, blogs on ERC's websites, podcasts on
 9 ERC's website, and virtual events offered through ERC's websites. Plaintiff estimates that ERC
 10 sends targeted advertisements to her through Facebook or email five (5) times per week and has
 11 done so throughout the Class Period (defined below).

12 17. ERC pays fees to market directly to California residents through third-party
 13 platforms like Google. For example, when Plaintiff enters the search phrase "eating disorder
 14 treatment in California" into a Google search bar, ERC is the *first* sponsored website listed in
 15 the search results. To achieve this position for this search phrase, ERC must pay a fee to Google
 16 and include material responsive to the search on its website. Google also allows advertisers to
 17 select the geographic regions in which they advertise, with fees increasing as more regions are
 18 included. Therefore, ERC affirmatively chose to and paid additional fees to market to California
 19 residents.

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 22 ³ See, e.g., <https://www.pathlightbh.com/treatment-centers/california> (describing treatment
 23 programs and locations for California residents); <https://www.pathlightbh.com/virtual->
 24 [treatment/california](#) (describing Pathlight's virtual treatment options "for patients living in
 25 California"); https://www.pathlightbh.com/sites/default/files/file/2024-02/PAL013.07A_CA_RegionalSheet_020924_Digital.pdf (regional sheet for California
 26 residents); <https://www.pathlightbh.com/news/eating-recovery-center-expands-binge-eating-treatment-recovery-program-sacramento> (article announcing new treatment center and programs
 27 in Sacramento, CA).

18. ERC's websites are highly interactive. Users are prompted to provide various types of information on ERC's websites when doing things like taking diagnostic quizzes, scheduling assessments, signing up for support groups, watching webinars, researching conditions and treatment, and using virtual services.

19. ERC generates a substantial portion of its revenue from California. ERC has brick and mortar clinics in fourteen states but only has multiple clinics in eight states, including California. ERC also provides virtual treatment and services to thousands (potentially tens of thousands) of California residents annually. Based on web traffic analysis data, more than 100,000 unique California residents visit ERC's websites on an annual basis. And California also has more residents with eating disorders than any other state.

20. Plaintiff's claims and injuries arose out of and relate to ERC's California-related activities. ERC entered into an agreement or conspiracy with a California-headquartered company (Meta) to engage in the unlawful activity alleged herein.

21. Plaintiff engaged with ERC's websites because ERC offers in-person and virtual services in California. But-for ERC's California-specific locations and services, Plaintiff would not have engaged with ERC's website, would not have had her private and medical information intercepted by Meta, and would not have suffered the injuries alleged herein.

22. Plaintiff suffered her injuries in California and had her data intercepted by a California company (Meta) while sending the communication from California. Given that Meta is headquartered in California, it is likely Plaintiff's communications were directed to a location in California.

23. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b), (c), and (d) because ERC transacts business in this District and a substantial portion of the events giving rise to the claims alleged herein occurred in this District.

III. PARTIES

24. Plaintiff Jane Doe is a resident of California. Plaintiff provided private and medical information to ERC that was intercepted by Meta via the Pixel. On ERC's websites, Plaintiff has (i) taken multiple diagnostic quizzes, including those for anorexia and bulimia; (ii)

1 filled out forms with information concerning her diagnosis and condition; (iii) scheduled
 2 follow-up calls with ERC, which reveal her condition and treatment; (iv) scheduled clinical
 3 assessments, which reveal her condition and treatment, and (v) researched several topics
 4 pertaining to her specific condition, symptoms, and treatment using the internal search bar on
 5 ERC's websites, including: residential programs, locations, treatment levels, and insurance
 6 coverage. Plaintiff has, and at all relevant times had, a Facebook account.

7 25. Defendant ERC is an international center for eating disorders and recovery, as
 8 well as for mood, anxiety, and trauma-related disorders. ERC's principal place of business is in
 9 Denver, Colorado. It has thirty-five centers in the US, including two in California. It also offers
 10 virtual services for thousands or tens of thousands of California residents. ERC employs
 11 roughly 1,400 individuals and generates roughly \$280 million in annual revenue.

12 26. The acts alleged to have been done by ERC were authorized, ordered, or
 13 performed by their directors, officers, managers, agents, employees, or representatives in the
 14 course of their employment and while actively engaged in the management of ERC's affairs.

15 27. ERC, through its subsidiaries, divisions, affiliates and agents, operated as a
 16 single unified entity with each acting as the agent or joint-venturer of or for the others with
 17 respect to the acts, violations, and common course of conduct alleged herein and under the
 18 authority and apparent authority of parent entities, principals and controlling parties.

19 IV. CLASS ACTION ALLEGATIONS

20 28. Plaintiff brings this action on behalf of herself and as a class action under Rule
 21 23(a), (b)(2) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the members of the
 22 following Class:

23 All persons who reside in California and whose medical or private
 24 information or communications were obtained by, shared with, or
 25 disclosed to Meta during the Class Period as a result of using
 26 ERC's websites (the "Class").

27 Specifically excluded from the Class are Defendant and its
 28 officers, directors or employees; any entity in which Defendant has
 a controlling interest; and any affiliate, legal representative, heir or
 assign of Defendant. Also excluded from the Class are any
 attorneys appearing in this matter, any federal, state or local
 governmental entities, any judicial officer presiding over this

1 action and the members of his or her immediate family and judicial
2 staff, and any juror assigned to this action.

3 29. The Class Period is the full extent of the applicable limitations period, including
4 any tolling or other equitable considerations that extend the limitations period.

5 30. Class Identity: The Class is readily identifiable and is one for which records
6 should exist.

7 31. Numerosity: Class Members are so numerous and geographically dispersed that
8 joinder is impracticable. Tens of thousands of California residents had their medical or private
9 information or communications obtained by, shared with, or disclosed to Meta because of using
10 an ERC website.

11 32. Typicality: Plaintiff's claims are typical of the claims of Class Members because
12 Plaintiff is a California resident who had her private and medical information and
13 communications obtained by, shared with, and disclosed to Meta because of using ERC's
14 website.

15 33. Defendant has acted in a manner that applies generally to Plaintiff and all Class
16 Members. Each Class Member has been similarly impacted by Defendant's failure to comply
17 with California law concerning the dissemination and protection of communications and
18 medical information.

19 34. Commonality: There are questions of law and fact common to the Class,
20 including, but not limited to:

- 21 (a) whether Defendant violated § 631 of CIPA by aiding, agreeing with, and
22 conspiring with Meta to disclose, share with, or permit Meta to collect Class
23 Members' communications made while using ERC's website;
- 24 (b) whether Defendant violated § 56.10(a) or (d) of the CMIA by disclosing or
25 sharing Class Members' medical information with Meta;
- 26 (c) whether Defendant was unjustly enriched by disclosing, sharing with, or
27 permitting the collection of Class Members' communications and medical
28 information with Meta to increase advertising effectiveness;

- (d) whether Defendant constitutes a “provider of health care” as used in § 56.10 of the CMIA;
 - (e) whether Class Members’ communications with ERC were obtained by Meta while in transit;
 - (f) whether ERC obtained consent from Class Members to share, disclose or permit the collection of communications and medical information made while using ERC’s websites; and
 - (g) whether the Pixel is a “machine, instrument, or contrivance” as the term is used by § 631 of CIPA.

35. Predominance: The above-listed questions of law and fact common to all Class Members predominate over questions that may affect individual Class Members.

36. Adequacy: Plaintiff will fairly and adequately protect the interests of the Class in that Plaintiff's interests are aligned with, and not antagonistic to, those of the other members of the Class. Plaintiff has also retained counsel competent and experienced in the prosecution of class actions and complex data privacy cases to represent her and the Class.

37. Superiority and Manageability: A Class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all Class Members is impracticable. The individual prosecution of separate actions by individuals would lead to repetitive adjudication of common questions of fact and law and create a risk of inconsistent or varying adjudications that would establish incompatible standards of conduct for Defendant. There will be no difficulty in the management of this action as a Class action.

V. FACTUAL ALLEGATIONS

A. Background

38. Meta is one of the largest companies in the world and generates a vast majority of its revenue from selling advertising on its websites and providing advertising services to third parties. Meta's advertising superiority largely stems from the vast amount of personal data it collects. Meta collects this information when people use its apps, like Facebook, and when people use third-party apps and websites that include data collecting devices like the Pixel.

1 39. One way in which Meta collects information when people use third-party
 2 websites is by offering the website operators “Business Tools” that “help website owners and
 3 publishers, app developers and business partners, including advertisers and others, integrate
 4 with Meta, understand and measure their products and services, and better reach and serve
 5 people who might be interested in their products and services.”⁴

6 40. In exchange for the Business Tools, Meta requires website operators provide it
 7 with, or permit it to intercept data concerning their users. Website operators can either provide
 8 this information manually or allow Meta to collect it automatically through code placed on the
 9 websites.

10 41. One such piece of code is the Pixel, which website operators can integrate into
 11 their websites. The Pixel “tracks the people and type of actions they take.”⁵ When a user
 12 accesses a website with the Pixel and takes certain actions on that website, the Pixel directs the
 13 user’s browser to send a separate message to Meta’s servers, i.e., re-direct the user’s
 14 communication to Meta while the communication is in transit. When a California resident has
 15 its data intercepted by Meta (a California-headquartered company), then Meta intercepts a
 16 communication that was sent from a place within California and likely redirected to a place
 17 within California. Meta’s code initiates this message simultaneously as the actions and
 18 communications on the website take place. The actions that trigger the Pixel include clicking on
 19 a page, inputting information, using a search bar, adding something to a cart, scrolling on the
 20 page, or providing answers to questions.

21 42. The Pixel transmission to Meta includes, by default, data about the page that was
 22 being viewed when the event was triggered and the IP address of the browser. The transmission
 23 can also include far more detailed information about the user, including full names, email
 24 addresses, phone numbers, birthdays, mailing addresses, and other unique information provided
 25 to websites.

27 28 ⁴ <https://www.facebook.com/help/adsmangerbuiltin/331509497253087>.

⁵ <https://www.facebook.com/business/goals/retargeting>.

1 43. Meta views the information collected by the Pixel and connects it to the
 2 corresponding website visitor, which occurs regardless of whether the user has a Facebook
 3 account. For visitors with a Facebook account, the Pixel “relies on Facebook cookies, which
 4 enable [Facebook] to match . . . website visitors to their respective Facebook User accounts.”⁶
 5 These cookies can connect website visitors to their Facebook profile regardless of whether they
 6 are logged into Facebook. If a Facebook user is not logged into Facebook or has blocked
 7 Facebook’s cookies, then Meta can connect the intercepted data to the user’s account through
 8 “Advanced Matching.”⁷

9 44. For website visitors without a Facebook account, Meta still collects, views, and
 10 uses the visitor’s data.⁸ For non-Facebook visitors, Meta creates what are commonly referred to
 11 as “shadow profiles.” When Meta receives data concerning someone with a shadow profile, it
 12 connects that data to the profile, enabling it to target ads to the non-users.

13 45. When health care providers place the Pixel on their websites, the information
 14 they permit Meta to collect often includes protected medical information, including information
 15 concerning the user’s diagnosis, condition, or treatment.

16 46. Typical internet users cannot detect whether the Pixel is present on a given
 17 website. The Pixel’s existence is intentionally invisible to the naked eye and is not apparent
 18 from commonly visible website data. To detect the presence of the Pixel, users must use special
 19 tools or software typically reserved for web developers. And even if users can detect the
 20 presence of the Pixel, they cannot determine which information it is collecting and sending to
 21 Meta without understanding the coding terms, hashed values, and specialized abbreviations
 22 unique to the Pixel. Thus, the Pixel allows Meta to be a silent third party watching whatever
 23 users are doing on certain websites.

24
 25
 26 ⁶ Meta, Meta Pixel (2023), <https://www.facebook.com/business/tools/meta-pixel>.

27 ⁷ [How We Built a Meta Pixel Inspector – The Markup](#).

28 ⁸ [How We Built a Meta Pixel Inspector – The Markup](#).

1 47. Both Meta and website operators benefit financially from the Pixel. Meta offers
 2 the Pixel to website operators as an analytics and advertising tool that operators use to increase
 3 advertising effectiveness and revenue. According to Meta, the Pixel “can help you better
 4 understand the effectiveness of your advertising and the actions people take on your site” and
 5 “log[s] when someone takes an action on your website.”⁹ It also enables website operators to
 6 “have options to reach those customers again through future Facebook ads.”¹⁰

7 48. In exchange for helping website operators with the effectiveness of their
 8 advertising, Meta receives data regarding the website’s users. Meta uses this information to
 9 improve the quality and detail of its ad profiles for each individual user, increase effectiveness
 10 of personalized content delivery, increase the value of its advertising network, and improve its
 11 machine-learning algorithms. All of this is geared toward improving Meta’s ability to identify
 12 and target users through directed advertising and increase the value of its ad space and ad
 13 services.

14 **B. ERC Violates CIPA, the CMIA, and other Laws through its use of the Pixel**

15 49. ERC’s websites are highly interactive and permit users to do several things.
 16 From links on just the home page, users can sign up for support groups, schedule assessments,
 17 and learn about various eating disorders and mood, anxiety, or trauma-related disorders. Users
 18 can also take self-assessment quizzes to determine condition and necessary treatment. And users
 19 can research symptoms, conditions, and treatments through the internal search bars on ERC’s
 20 websites.

21 50. Unbeknownst to users, and despite claiming near the top of the home page that
 22 information is “100% Confidential,” ERC unlawfully shares much of this information with
 23 Meta without users’ consent via the Pixel. The information ERC enables Meta to collect
 24 includes: (i) medical treatment users are seeking; (ii) answers to diagnostic quizzes, which
 25 reveals symptoms and conditions; (iii) locations where users are seeking treatment, which

27 ⁹ <https://www.facebook.com/business/tools/meta-pixel>;

28 <https://www.facebook.com/business/help/742478679120153?id=1205376682832142>.

¹⁰ <https://www.facebook.com/business/help/742478679120153?id=1205376682832142>.

1 indicates the type of treatment users are seeking; (iv) the support groups for which users
 2 register, which discloses medical conditions; (v) users' scheduling of appointments through the
 3 site, which discloses conditions and treatment; and (vi) content entered into the websites'
 4 internal search bar, which can disclose medical condition, symptoms, and/or treatment.

5 51. ERC also shares information that ensures Meta can connect the medical
 6 information to specific individuals, including users' IP addresses associated with their browser
 7 and Facebook IDs ("FID"). An FID uniquely identifies an individual's Facebook user account.
 8 Anyone who possesses a person's FID can use this identifier to quickly and easily locate,
 9 access, and view the corresponding Facebook profile.

10 52. The following diagram shows the information intercepted by the Pixel when a
 11 person with a Facebook account searches "eating disorder" on ERC's internal search bar, which
 12 includes the search terms and the user's FID:

```

13 :authority: www.facebook.com
14 :method: GET
15 :path: /tr/?id=878621089183024&ev=Microdata&d=https%3A%2F%2Fwww.eatingrecoverycenter.com%2Fsearch%3Fkeyword%3Deating%2520disorder r1=https%3A%2F%2Fwww.eatingrecoverycenter.com%2Finsurance&if=false&ts=1676824623114&cd[DataLayer]=%5B%5D&cd[Meta]=%7B%22title%22%3A%22Search%20%7C%20Eating%20Recovery%20Center%22%2C%22meta%3Adescription%22%3A%22Browse%20our%20site%20for%20physician%20and%20leadership%20bios%2C%20resources%2C%20locations%2C%20care%20options%2C%20and%20more.%20Eating%20Recovery%20Center%20is%20here%20to%20assist%20any%20way%20we%20can.%22%7D&cd[OpenGraph]=%7B%22og%3Asite_name%22%3A%22Eating%20Recovery%20Center%22%2C%22og%3Auri%22%3A%22https%3A%2F%2Fwww.eatingrecoverycenter.com%2Fsearch%2C%22og%3Atitle%22%3A%22Search%20%7C%20Eating%20Recovery%20Center%22%2C%22og%3Adescription%22%3A%22Browse%20our%20site%20for%20physician%20and%20leadership%20bios%2C%20resources%2C%20locations%2C%20care%20options%2C%20and%20more.%20Eating%20Recovery%20Center%20is%20here%20to%20assist%20in%20any%20way%20we%20can.%22%7D&cd[Schema.org]=%5B%5D&cd[JSON-LD]=%5B%5D&sw=1920&sh=1080&v=2.9.96&r=stable&a=tmgoogletagmanager&ec=1&o=30&fbp=fb.1.1676466470419.132862039&it=1676824622517&coo=false&es=automatic&tm=3&rqm=GET
16 :scheme: https
17 accept: image/avif,image/webp,image/apng,image/svg+xml,image/*,*/*;q=0.8
18 accept-encoding: gzip, deflate, br
19 accept-language: en-US,en;q=0.9,he-IL;q=0.8,he;q=0.7
20 cookie: sb=hpKjY6Wa_S1cjRXq38lpjHu; datr=P-S-Y0nVQQMMyU5uoUeImI; c_user=100075943 xs=12%3AjaykUFgVC6i7YA%3A2%3A1673454670%3A-1%3A-1%3A%3AAcWf7D8aiCE1J3_apOAZrKAnhMvCPJ7ipjToq6bFQ; fr=0mEbC9Ubieton8u9f.AWUPyy4bi9vRI04k8Pa_bdSzUcw.Bj65yO.2._AAA.0.0.Bj65yO.ANUYgCpfDFE
21 referer: https://www.eatingrecoverycenter.com/
22 sec-ch-ua: "Chromium";v="110", "Not A(Brand";v="24", "Google Chrome";v="110"
23 sec-ch-ua-mobile: ?0
  
```

24 53. Even for non-Facebook users, the Pixel discloses information that enables Meta
 25 to connect the private and medical information to specific individuals. This information
 26 includes names, addresses, phone numbers, device identifiers, URLs, IP addresses, and other
 27 information. Meta connects this information to "shadow profiles" they keep for individuals
 28 without Facebook accounts.

1 54. The following are representative examples demonstrating how users interact with
 2 ERC's websites and how that information is sent to Meta via the Pixel.
 3

4 55. First, upon entering the homepage of eatingrecoverycenter.com, users can hover
 5 on the "Conditions" tab and select a particular condition in order to explore treatment options.
 6 After selecting a condition, users are given an option to take a self-assessment quiz. Once a user
 7 submits an answer, many of which contain private and/or medical information, the answer is
 automatically sent to Meta.

8 56. For example, ERC's "Compulsive Overeating" quiz asks users how often they
 9 "experience distress around my eating, including guilt, shame, or regret." The question looks like
 10 this:

The screenshot shows a web page from the Eating Recovery Center. At the top, there is a navigation bar with links to Treatment & Services, Conditions, Programs by State, Insurance & Admissions, Treatment at Home, Education & Support Groups, a Schedule a Free Assessment button, and a phone number 1-866-515-8262. Below the navigation bar is a secondary menu with links to Overview, Causes, Signs & Symptoms, Health Risks, Treatment, Facts & Statistics, FAQ, and Quiz. The main content area features a dark header with the text "Take Our Compulsive Overeating Quiz Today" and a subtext "Our therapists are licensed, qualified, and ready to help." Below this, a question is displayed in a red-bordered box: "I experience distress around my eating, including guilt, shame or regret." Three buttons below the question are labeled "Often", "Sometimes", and "Never", with "Often" being highlighted with a red border. At the bottom of the quiz section, a note reads: "Please note: this online eating disorder screening test is not intended to diagnose an illness. If you are struggling with eating disorder behaviors, we encourage you to call us at 866-515-8262 or find an experienced eating disorder treatment professional near you. If you are experiencing a medical emergency, please dial 911 or go to your nearest emergency room."

21 57. Once the user answers the question, its answer is sent to Meta via the Pixel. For
 22 Facebook users, the information submitted includes their FID, meaning it is personally
 23 identifiable. The following diagram shows the information sent to Meta for someone who
 24 answers "Often" to the above question:
 25
 26

```

1 :authority: www.facebook.com
2 :method: GET
3 :path: /tr/?id=878621089183024&ev=SubscribedButtonClick&d1=https%3A%2F%2Fwww.eatingrecoverycenter.com%2Fconditions%2Fcompulsive-overeating%2Fquiz%23start-quiz&r1=htt
4 ps%3A%2F%2Fwww.eatingrecoverycenter.com%2Fconditions%2Fcompulsive-overeating&if=false&ts=1676886841083&cd[buttonFeatures]=%7B%22classList%22%3A%22quiz-opt%20range%2
5 2%2C%22destination%22%3A%22%22%2C%22id%22%3A%220ften%22%2C%22imageUrl%22%3A%22%22%2C%22innerText%22%3A%220ften%22%2C%22numChildButtons%22%3A%2C%22tag%22%3A%22butto
6 n%22%2C%22type%22%3Anull%2C%22name%22%3A%22%2C%22value%22%3A%22%22%22%7D&cd[formFeatures]=%5B%5D&cd[pageFeatures]=%7B%22title%22%3A%22Why%20D
7 o%20In%20Overeating%20Compulsive%20Overeating%20Quiz%20%7C%20Eating%20Recovery%20Center%22%7D&sh=1920&sh=1080&v=2.9.96&r=stable&a=tmgoogletagmanager&ec=2&cs_est
8 =true&fbpp=fb.1.1676466470419.1328682039&it=1676886837882&coo=false&es=automatic&tm=3&rqm=GET
9 :scheme: https
10 accept: image/avif,image/webp,image/apng,image/svg+xml,image/*,*/*;q=0.8
11 accept-encoding: gzip, deflate, br
12 accept-language: en-US,en;q=0.9,he-IL;q=0.8,he;q=0.7
13 cookie: sb=hpKyY6Wa_S1cJRXa3BlpijHu; datr=P-S-Y0nVQQMMyy5uoouVeIMI; c_user=100075943_____xs=12%3AjaykUFgVCG17YA%3A2%3A1673454670%3A-1%3A-1%3A%3AAclQF7D8aiCE1J3_a
14 p0AZrKANhMvCPj7ipjToq6bFQ; fr=0mEbC9Ubieton8u9f.ANUPy4b19vRI04k8Pa_ddSzulw.8j65y0.2_.AAA.0.0.Bj65y0.AhUYgCpfDFE
15 referer: https://www.eatingrecoverycenter.com/
16 sec-ch-ua: "Chromium";v="110", "Not A(Brand";v="24", "Google Chrome";v="110"
17 sec-ch-ua-mobile: ?
18 sec-ch-ua-platform: "Windows"
19 sec-fetch-dest: image
20
21
22
23
24
25
26
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28

```

58. Every answer that a user provides is submitted to Meta in this manner.

59. Once a user completes the quiz, ERC provides users the option to schedule an assessment if their quiz results suggest they may have a condition for which ERC provides services.

The screenshot shows a dark blue header with the text "Take Our Compulsive Overeating Quiz Today" and a subtext "Our therapists are licensed, qualified, and ready to help." Below the header, a green horizontal bar contains the text "12 / 12". Underneath, a section titled "Quiz Results" displays a message: "Your answers indicate that you may be experiencing compulsive overeating behaviors. We recommend that you schedule a free and confidential assessment with one of our Masters-level clinicians to help you understand your symptoms, explore treatment options and learn what to expect in recovery." Two buttons are present: a green button with the phone number "877-825-8584" and a red button with the text "Schedule an Assessment". At the bottom, a note states: "Please note: this online eating disorder screening test is not intended to diagnose an illness. If you are struggling with eating disorder behaviors, we encourage you to call us at [866-562-4435](#) or find an experienced eating disorder treatment professional near you. If you are experiencing a medical emergency, please dial 911 or go to your nearest emergency room."

60. If a user clicks to schedule an assessment with ERC (which Plaintiff did), then that information is also shared with Meta. For example, the following diagram involves a user that clicked to schedule an assessment after taking the compulsive overeating quiz:

```
id: 909314106089721
ev: SubscribedButtonClick
dl: https://www.eatingrecoverycenter.com/conditions/compulsive-overeating/quiz#start-quiz
rl: https://www.eatingrecoverycenter.com/conditions/compulsive-overeating
if: false
ts: 1676540452148
cd[buttonFeatures]: {"classList": "", "destination": "https://www.eatingrecoverycenter.com/form/sel-f-assessment-form", "id": "", "imageUrl": "", "innerText": "Schedule an Assessment", "numChildButtons": 0, "tag": "a", "type": null, "name": ""}
cd[buttonText]: Schedule an Assessment
cd[formFeatures]: []
cd[pageFeatures]: {"title": "Why Do I Overeat? Compulsive Overeating Quiz | Eating Recovery Center"}
sw: 1920
sh: 1080
v: 2.9.95
r: stable
a: tmgoogletagmanager
ec: 17
o: 30
cs_est: true
fbp: fb.1.1676466470419.1328682039
it: 1676538614046
coo: false
es: automatic
tm: 3
exp: c1
rqm: GET

id: 909314106089721
ev: SubscribeButtonClick
dl: https://www.eatingrecoverycenter.com/conditions/compulsive-overeating/quiz#start-quiz
rl: https://www.eatingrecoverycenter.com/conditions/compulsive-overeating
if: false
ts: 1676551415330
cd[buttonFeatures]: {"classList": "cta-btn", "destination": "tel:877-825-8584", "id": "", "imageUrl": "", "innerText": "877-825-8584", "numChildButtons": 0, "tag": "a", "type": null, "name": ""}
cd[buttonText]: 0-0-0
cd[formFeatures]: []
cd[pageFeatures]: {"title": "Why Do I Overeat? Compulsive Overeating Quiz | Eating Recovery Center"}
sw: 1920
sh: 1080
v: 2.9.95
```

1 61. As the above demonstrates, anyone reviewing this information would know
2 private details about the user's mental and physical condition and treatment, including: (i) the
3 user took the compulsive eating quiz, (ii) several of the user's symptoms, (iii) the quiz results
4 indicated the user could have a compulsive eating disorder and an additional assessment was
5 recommended, and (iii) the user called to schedule an assessment concerning compulsive eating.
6 The same process takes place for the condition-specific quizzes on ERC's websites, such as the
7 anorexia and bulimia quizzes.

8 62. ERC also shares information concerning users' searches for and calls to
9 treatment centers with Meta. ERC allows users to search treatment centers by location. Once a
10 user identifies the treatment center it will use, ERC provides the option to call and schedule an
11 appointment with the center. The user's search for the treatment center and clicks to call and
12 schedule an appointment are shared with Meta in the following manner, which involves a user
13 that searched for centers in California and called a center in Irvine:

14 ///

15 ///

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17 ///

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20 ///

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22 ///

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24 ///

25 ///

26 ///

27 ///

28 ///

```
1 id: 878621089183024
2 ev: Microdata
3 dl: https://www.eatingrecoverycenter.com/recovery-centers/irvine
4 rl: https://www.eatingrecoverycenter.com/recovery-centers/california
5 ts: 1676539820470
6 cd[DataLayer]: []
7 cd[Meta]: {"title": "Eating Recovery Center Irvine | Eating Recovery Center", "meta:description": "Located in Irvine, California - in Orange County - ERC Irvine serves medically-stable adolescents and adults with eating disorders.\n\nOur eating disorders program provides evidence-based treatment for all types of eating disorders, including ARFID and Binge Eating Disorder. This center is our second in the state and first in Southern California, with a PHP program that provides supportive meals and snacks 7 days a week, with daily opportunities to practice new recovery skills in a safe, healing environment."}
8 cd[OpenGraph]: {"og:site_name": "Eating Recovery Center", "og:url": "https://www.eatingrecoverycenter.com/recovery-centers/irvine", "og:title": "Eating Recovery Center Irvine | Eating Recovery Center", "og:description": "Located in Irvine, California - in Orange County - ERC Irvine serves medically-stable adolescents and adults with eating disorders.\n\nOur eating disorders program provides evidence-based treatment for all types of eating disorders, including ARFID and Binge Eating Disorder. This center is our second in the state and first in Southern California, with a PHP program that provides supportive meals and snacks 7 days a week, with daily opportunities to practice new recovery skills in a safe, healing environment."}
9 cd[Schema.org]: []
10 cd[JSON-LD]: [{"@context": "https://schema.org", "@graph": [{"@type": "MedicalBusiness", "@id": "https://www.eatingrecoverycenter.com/recovery-centers/irvine", "description": "<p>Located in Irvine, California - in Orange County - ERC Irvine serves medically-stable adolescents and adults with eating disorders.\n\nOur eating disorders program provides evidence-based treatment for all types of eating disorders, including ARFID and Binge Eating Disorder. This center is our second in the state and first in Southern California, with a PHP program that provides supportive meals and snacks 7 days a week, with daily opportunities to practice new recovery skills in a safe, healing environment.</p>"}, {"name": "Eating Recovery Center Irvine", "url": "https://www.eatingrecoverycenter.com/recovery-centers/irvine", "telephone": "949-504-4673", "address": {"@type": "PostalAddress", "streetAddress": "114 Pacifica #450", "addressLocality": "Irvine", "addressRegion": "CA", "postalCode": "92618", "addressCountry": "US"}]}]
11 :authority: www.facebook.com
12 :method: GET
13 :path: /tr/?id=909314106089721&ev=PageView&dl=https%3A%2F%2Fwww.eatingrecoverycenter.com%2Frecovery-centers%2Firvine&rl=https%3A%2F%2Fwww.eatingrecoverycenter.com%2Frecovery-centers%2Fcalifornia if=false&ts=1676824363299&sw=1920&sh=1080&v=2.9.96
14 &r=stable&a=tmgoogletagmanager&ec=0&o=30&cs_est=true&fbp=fb.1.1676466470419.1328682039&it=1676824362408&coo=false&rqm=GET
15 T
16 :scheme: https
17 accept: image/avif,image/webp,image/apng,image/svg+xml,image/*,*/*;q=0.8
18 accept-encoding: gzip, deflate, br
19 accept-language: en-US,en;q=0.9,he-IL;q=0.8,he;q=0.7
20 cookie: sb=hPKyY6Wa_S1cjRQx3B1pijHu; datr=P-S-Y0nVQ0MMYyU5ouuVeImI; c_user=100075941; xs=12%3AJaykUFgVCGi7YA%3A2%3A16
21 73454670%3A-1%3A-1%3A%3AAcIWQF7D8aICE1J3_apOAZrKANhMvCPJ7ipjToq6bFQ; fr=0mEbC9Ubieton8u9f.AWUPyy4bi9vRI04k8Pa_bdSzUcw.Bj65y
22 0.2._AAA.0.0.Bj65y0.ANUYgCpfDFE
23 referer: https://www.eatingrecoverycenter.com/
24 sec-ch-ua: "Chromium";v="110", "Not A(Brand";v="24", "Google Chrome";v="110"
25 sec-ch-ua-mobile: ?0
26 sec-ch-ua-platform: "Windows"
27 sec-fetch-dest: image
28 sec-fetch-mode: no-cors
29 sec-fetch-site: cross-site
30 user-agent: Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/110.0.0.0 Safari/537.3
```

1 63. Anyone reviewing the above information would obtain information concerning
 2 the user's condition, treatment, general age, and general location.

3 64. ERC also shares information concerning users' registration for support groups.
 4 ERC offers several support groups that users can join online. When a user joins a support group
 5 through ERC's websites, this information is sent to Meta via the Pixel in the following manner,
 6 which involves a user signing up for the "Monday Midday LGBTQ+ Eating Disorder and Body
 7 Image Support Group":

```

 8 :authority: www.facebook.com
 9 :method: GET
10 :path: /tr/?id=909314106089721&ev=PageView&dl=https%3A%2Fwww.eatingrecovery.co
11 m%2Fevent%2Fmonday-midday-lgbtq-eating-disorder-body-image-support-group&cl=https%3A%
12 F%2Fwww.eatingrecoverycenter.com%2Fsupport-groups&if=false&ts=1676540554300&sw=1920&
13 sh=1080&v=2.9.95&r=stable&a=tmgoogletagmanager&ec=0&o=30&cs_est=true&fbp=fb.1.1676466470
14 419.1328682039&it=1676540554083&coo=false&rqm=GET
15 :scheme: https
16 accept: image/avif,image/webp,image/apng,image/svg+xml,image/*,*/*;q=0.8
17 accept-encoding: gzip, deflate, br
18 accept-language: en-US,en;q=0.9,he-IL;q=0.8,he;q=0.7
19 cookie: sb=hpKyY6Wa_S1cjRXq3B1pijHu; datr=P-S-Y0nVQQMMYyU5uouVeImI; c_user=10007594
20 ; xs=12%3AjaykUFgVCGi7YA%3A2%3A1673454670%3A-1%3A-1%3A%3AAcWQF7D8aiCE1J3_ap0AZrKANh
21 MvCPJ7ipjToq6bFQ; fr=0mEbC9Ubieton8u9f.AWUPyy4bi9vRI04k8Pa_bdSZuCw.Bj65yO.2_.AAA.0.0.B
22 j65yO.AWUYgCpfDFE
23 referer: https://www.eatingrecoverycenter.com/
24 sec-ch-ua: "Chromium";v="110", "Not A(Brand";v="24", "Google Chrome";v="110"
25 sec-ch-ua-mobile: ?0
26 sec-ch-ua-platform: "Windows"
27 sec-fetch-dest: image
28 sec-fetch-mode: no-cors
sec-fetch-site: cross-site
  
```

24 65. Anyone reviewing the above information would obtain information concerning
 25 the user's medical condition, treatment, and sexuality.

26 66. ERC also shares keyword searches by users when using ERC's internal search
 27 bar, which often includes information concerning the user's condition, symptoms, treatment,
 28

1 etc. For example, when a user uses the search bar to search “eating disorder,” ERC provides the
 2 following information to Meta:

```

 3 :authority: www.facebook.com
 4 :method: GET
 5 :path: /tr/?id=878621089183024&ev=Microdata&dlt=https%3A%2F%2Fwww.eatingrecoverycenter.com%2Fsearch%3Fkeyword%3Deating%2520disorder|r1=https%3A%2F%2Fwww.eatingrecoverycenter.com%2Finsurance&if=false&ts=1676824623114&cd[DataLayer]=%5B%5D&cd[Meta]=%7B%22title%22%3A%22Search%20%7C%20Eating%20Recovery%20Center%22%2C%22meta%3A%22description%22%3A%22browse%20our%20site%20for%20physician%20and%20leadership%20bios%2C%20resources%2C%20locations%2C%20care%20options%2C%20and%20more.%20Eating%20Recovery%20Center%20is%20here%20to%20assist%20any%20way%20we%20can.%22%7D&cd[OpenGraph]=%7B%22og%3A%22site_name%22%3A%22Eating%20Recovery%20Center%22%2C%22og%3A%22url%22%3A%22https%3A%2F%2Fwww.eatingrecoverycenter.com%2Fsearch%22%2C%22og%3A%22title%22%3A%22Search%20%7C%20Eating%20Recovery%20Center%22%2C%22og%3A%22description%22%3A%22browse%20our%20site%20for%20physician%20and%20leadership%20bios%2C%20resources%2C%20locations%2C%20care%20options%2C%20and%20more.%20Eating%20Recovery%20Center%20is%20here%20to%20assist%20in%20any%20way%20we%20can.%22%7D&cd[Schema.org]=%5B%5D&cd[%5B%5D%20-%20LD]=%5B%5D&sw=1920&sh=1080&v=2.9.96&r=stable&a=tmgoogletagmanager&ec=1&o=3&fbp=fb.1.1676466470419.1328682039&it=1676824622517&coo=false&es=automatic&tm=3&rqm=GET
 6 :scheme: https
 7 accept: image/avif,image/webp,image/apng,image/svg+xml,image/*,*/*;q=0.8
 8 accept-encoding: gzip, deflate, br
 9 accept-language: en-US,en;q=0.9,he-IL;q=0.8,he;q=0.7
10 cookie: sb=hpKjY6Wa_S1cjRXq381pijHu; datr=P-S-Y0nVQMMyyU5ouuVeImI; c_user=100075943[REDACTED] xs=12%3AjaykuFgVCGi7YA%3A2%3A1673454670%3A-1%3A-1%3A%3AAcIQF7D8aiCE1J3_ap0AzrKAllhMvCPJ7ipjTqg6bfQ; fr=0mEbC9Ubietonu9f.AHUUpyy4bi9vRIO4k8pa_bdsZuCuw.Bj65yO.2._AAA.0.0.Bj65yO.AHUYgCpfDFE
11 referer: https://www.eatingrecoverycenter.com/
12 sec-ch-ua: "Chromium";v="110", "Not A(Brand";v="24", "Google Chrome";v="110"
13 sec-ch-ua-mobile: ?0
  
```

15 68. Plaintiff visited ERC’s websites on several occasions while investigating her
 16 condition, symptoms, and treatment options for her eating disorder. While using ERC’s website,
 17 Plaintiff at least engaged in the following: (i) taking several diagnostic quizzes, including the
 18 anorexia and bulimia quizzes, which required her to provide medical information about her
 19 condition and treatment; (ii) researching her specific eating disorder through ERC’s internal
 20 search bar, which included inputting information about her specific condition, symptoms, and
 21 treatment; (iii) searching for treatment locations and treatment levels for her eating disorder,
 22 which included information about her condition and treatment; (iv) scheduling an assessment
 23 with ERC through its website, which included information concerning her condition, treatment,
 24 treatment location, and treatment providers; (v) filling out forms with her name, diagnosis,
 25 symptoms, contact information, and insurance information; and (vi) researching levels of care
 26 and treatment options for mental health disorders provided by California treatment centers on
 27 pathlightbh.com.

1 69. Meta intercepted and viewed Plaintiff's information and created tools and
 2 analytics for ERC to market directly to her. After visiting ERC's website and providing the
 3 confidential information discussed above, Plaintiff began receiving (and still receives) ads for
 4 ERC on Facebook that were tailored to her specific eating disorder and symptoms. At the same
 5 time, Plaintiff started receiving targeted email advertising from ERC to the email address
 6 associated with her Facebook account that were also directly related to the conditions,
 7 symptoms, and disorders she disclosed to ERC.

8 **C. ERC and Meta Harmed Plaintiff and Class Members**

9 70. There is a significant market for consumers' medical data, and the value of
 10 medical data far exceeds the value of other types of consumer data. According to a 2021 article
 11 from Forbes, "[r]eports show the value of a health record can be worth as much as \$1,000,
 12 whereas on the dark web, a credit card number is worth \$5 and Social Security numbers are
 13 worth \$1."¹¹

14 71. According to a 2021 report, personal medical information is one of the most
 15 valuable types of data a consumer possesses. According to the report, a person's social security
 16 number sells on the black market for an average of \$0.53 while a person's health care records
 17 sell for \$250 on average. The article included the following breakdown of prices paid for
 18 various pieces of data:

Record Type	Average Price
Health Care Record	\$250.15
Payment Card Details	\$5.40
Banking Records	\$4.12
Access Credentials	\$0.95
Social Security Number	\$0.53
Credit Record	\$0.31
Basic PII	\$0.03

27
 28 ¹¹ [Healthcare Data: The Perfect Storm \(forbes.com\)](https://www.forbes.com/sites/robmcmillan/2021/07/14/healthcare-data-the-perfect-storm/).

72. According to a 2017 article from Forbes, electronic medical records were worth “hundreds or even thousands of dollars,” while social security numbers were worth \$0.10 and credit card numbers were worth \$0.25.¹²

73. Healthcare providers spend millions of dollars annually to purchase health data and medical data. In fact, the medical data industry was valued at over \$2.6 billion as of 2014, and this value has only increased exponentially in the ten years since this estimate was generated.

74. Through their scheme discussed herein to intercept and use Plaintiff's and Class Members' private medical data for their financial benefit, ERC and Meta have deprived Plaintiff and Class Members of the economic value of their private medical information. Plaintiff and Class members have also been injured through their receipt of continuous advertisements through Facebook and email stemming from their use of ERC's website while the Pixel was present.

D. Tolling

75. Any applicable statute of limitations has been tolled by ERC's knowledge and concealment of the unlawful conduct and misrepresentations alleged herein. Plaintiff and Class Members could not have discovered ERC's unlawful conduct through reasonable diligence.

76. ERC knowingly, actively, affirmatively and/or negligently concealed the facts alleged herein. Plaintiff and Class Members reasonably relied on ERC's concealment.

VI. CLAIMS ALLEGED ON BEHALF OF THE CLASS

COUNT I

Violation of the California Invasion of Privacy Act, Cal. Penal Code § 630, et seq.
(Plaintiff and Class Against Defendant)

77. Plaintiff repeats and realleges every allegation set forth in the preceding paragraphs as if set forth herein.

78. California Penal Code § 631(a) provides in pertinent part:

¹² Your Electronic Medical Records Could Be Worth \$1000 To Hackers (forbes.com).

1 Any person who, by means of any machine, instrument, or contrivance, or in
 2 any other manner . . . willfully and without the consent of all parties to the
 3 communications, or in any unauthorized manner, reads, or attempts to read,
 4 or to learn the contents or meaning of any message, report, or
 5 communication while the same is in transit or passing over any wire, line, or
 6 cable, or is being sent from, or received at any place within this state; or
 7 who uses, or attempts to use, in any manner, or for any purpose, or to
 communicate in any way, any information so obtained, or who aids, agrees
 with, employs, or conspires with any person or persons to unlawfully do, or
 permit, or cause to be done any of the acts or things mentioned above in this
 section, is punishable by a fine not exceeding two thousand five hundred
 dollars (\$2,500).

8 79. As alleged herein, Meta violated CIPA by using the Pixel to intercept Plaintiff's
 9 and Class Members' medical or private information or communications when they interact with
 10 ERC's websites. Plaintiff's and Class Members' communications were intercepted by Meta
 11 while in transit, passing over a wire, line or cable, and were sent and/or received at a place
 12 within California. The communications were intercepted by Meta without the knowledge,
 13 authorization, or consent of Plaintiff or Class Members. Meta viewed and used this information
 14 to increase the value of its advertising tools and services.

15 80. ERC aided, employed, agreed with, and/or conspired with Meta to violate CIPA.
 16 ERC willfully and intentionally inserted an electronic device (the Pixel) into its website that,
 17 without the knowledge or consent of Plaintiff and Class Members, recorded and transmitted the
 18 substance of their confidential communications with ERC to Meta.

19 81. The Pixel constitutes a machine, instrument, and/or contrivance as these terms
 20 are used in Cal. Penal Code § 631.

21 82. ERC does not disclose that it is using the Pixel to permit Meta to track and
 22 automatically and in real time collect users' information and send it to Meta. In fact, ERC
 23 represents that users' communications are "100% Confidential" and that it "does NOT collect
 24 your personal information while you visit our website" and will "NEVER share or sell your
 25 personal information to a third party of any nature."¹³

27 28¹³ <https://www.eatingrecoverycenter.com/>; <https://www.eatingrecoverycenter.com/privacy-policy>.

1 83. The communications that ERC permits Meta to intercept include numerous
2 categories of users' medical and private information: (i) the medical treatment users are
3 receiving or considering; (ii) answers to diagnostic quizzes; (iii) locations where users are
4 obtaining or considering receiving treatment; (iv) support groups for which users register; and
5 (v) all information entered into the website's internal search bar. This information constitutes
6 protected private and medical information.

7 84. Meta and ERC use the information intercepted by the Pixel for pecuniary
8 purposes. Meta uses the information to increase the value of its advertising tools and services.
9 In exchange for providing its users' information to Meta, ERC receives information and
10 analytics provided by Meta that ERC uses to refine and more effectively advertise to new and
11 existing users.

12 85. By violating Cal. Penal Code § 631, ERC is liable to Plaintiff and Class
13 Members for the greater of (i) treble actual damages related to their loss of privacy or (ii)
14 \$5,000 per violation. Under Cal. Penal Code § 637.2(a), Plaintiff and Class Members need not
15 suffer or be threatened with any additional damages.

16 86. ERC is also liable for reasonable attorney's fees, litigation costs, injunctive and
17 declaratory relief, and punitive damages in an amount to be determined by a jury.

COUNT II

Violation of the Confidentiality of Medical Information Act, Cal. Civ. Code § 56.10(a)
(Plaintiff and Class Against Defendant)

21 87. Plaintiff repeats and realleges every allegation set forth in the preceding
22 paragraphs as if set forth herein.

23 88. The CMIA prohibits health care providers from disclosing medical information
24 relating to their users without authorization.

25 89. “Medical information” refers to “any individually identifiable information, in
26 electronic or physical form, in possession of or derived from a provider of health care . . .
27 regarding a user’s medical history, mental or physical condition, or treatment.” Cal. Civ. Code §
28 56.05(i).

1 90. “Provider of health care” means “a person licensed or certified pursuant to
 2 Division 2 (commencing with Section 500) of the Business and Professions Code; a person
 3 licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act; a person
 4 certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety
 5 Code; or a clinic, health dispensary, or health facility licensed pursuant to Division 2
 6 (commencing with Section 1200) of the Health and Safety Code.” Cal. Civ. Code § 56.05(o).
 7 ERC is a provider of health care under this definition.

8 91. By imbedding the Pixel on its websites, ERC discloses medical information
 9 without the user’s authorization.

10 92. The information ERC discloses and shares with Meta constitutes medical
 11 information as the term is defined by the CMIA, including: (i) the medical treatment users are
 12 receiving or considering; (ii) answers to diagnostic quizzes, which contains information
 13 concerning the user’s medical history, mental or physical conditions, and treatment; (iii)
 14 locations where users are obtaining or considering receiving treatment, which includes
 15 information concerning the user’s mental or physical condition and treatment; (iv) support
 16 groups for which users register, which contains information concerning the user’s mental or
 17 physical condition and treatment; and (v) all information entered into the websites’ internal
 18 search bar, which can include information concerning the user’s medical history, mental or
 19 physical condition, and treatment.

20 93. ERC also discloses certain identifiers that make the medical information
 21 personally identifiable. This information includes: FIDs, names, mailing addresses, phone
 22 numbers, device identifiers, URLs, IP addresses, and other information. Meta also employs
 23 other tools (e.g., cookies) to ensure the user data can be directly connected to individuals,
 24 regardless of whether they have a Facebook account.

25 94. ERC does not obtain authorization to disclose Class Members’ medical
 26 information. It also fails to disclose anywhere that it shares this information with any third
 27 parties and actually claims the opposite in its Privacy Policy and through other statements on its
 28 websites.

1 95. ERC was at least negligent in releasing Plaintiff's and Class Members' medical
 2 information to Meta. ERC owed Plaintiff and Class Members a statutory and common law duty
 3 to maintain the confidentiality of their medical information. ERC breached that duty by
 4 inputting the Pixel on its website and enabling Meta to intercept the medical information.
 5 ERC's breach of its duty directly and proximately caused harm to Plaintiff and Class Members.

6 96. By violating the CMIA, ERC is liable to Plaintiff and Class Members for the
 7 greater of (i) actual damages or (ii) \$1,000 per violation. *See Cal. Civil Code § 56.36(b).*
 8 Plaintiff and Class Members need not suffer or be threatened with any additional damages. *Id.*

9 97. ERC is also liable for reasonable attorney's fees, litigation costs, injunctive and
 10 declaratory relief, and punitive damages in an amount to be determined by a jury.

COUNT III

Violation of the Confidentiality of Medical Information Act, Cal. Civ. Code § 56.10(d) **(Plaintiff and Class Against Defendant)**

11 98. Plaintiff repeats and realleges every allegation set forth in the preceding
 12 paragraphs as if set forth herein.

13 99. The CMIA prohibits a health care provider or corporation from intentionally
 14 sharing, selling, using for marketing, or otherwise using medical information for a purpose not
 15 necessary to provide health care services to the patient without a patient's authorization.

16 100. ERC is both a health care provider and corporation.

17 101. By imbedding the Pixel on its websites, ERC intentionally shares, uses for
 18 marketing, or otherwise uses medical information for a purpose not necessary to provide health
 19 care services to their users without their authorization. Rather, ERC shares Class Members'
 20 information with Meta to improve advertising efficacy.

21 102. The information ERC discloses and shares with Meta constitutes medical
 22 information as the term is defined by the CMIA, including: (i) the medical treatment users are
 23 receiving or considering; (ii) answers to diagnostic quizzes, which contains information
 24 concerning the user's medical history, mental or physical conditions, and treatment; (iii)
 25 locations where users are obtaining or considering receiving treatment, which includes
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 27
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1 information concerning the user's mental or physical condition and treatment; (iv) support
2 groups for which users register, which contains information concerning the user's mental or
3 physical condition and treatment; and (v) all information entered into the websites' internal
4 search bar, which can include information concerning the user's medical history, mental or
5 physical condition, and treatment.

6 103. ERC also discloses certain identifiers that make the medical information
7 personally identifiable. This information includes: FIDs, names, mailing addresses, phone
8 numbers, device identifiers, URLs, IP addresses, and other information. Meta also employs
9 other tools (e.g., cookies) to ensure the user data can be directly connected to individuals,
10 regardless of whether they have a Facebook account.

11 104. ERC does not obtain authorization to disclose Class Members' medical
12 information. It also fails to disclose anywhere that it shares this information with any third
13 parties and actually claims the opposite in its Privacy Policy and through other statements on its
14 website.

15 105. ERC was at least negligent in releasing Plaintiff's and Class Members'
16 confidential information to Meta. ERC owed Plaintiff and Class Members a statutory and
17 common law duty to maintain the confidentiality of their medical information. ERC breached
18 that duty by inputting the Pixel on its website and enabling Meta to intercept the medical
19 information. ERC's breach of its duty directly and proximately caused harm to Plaintiff and
20 Class Members.

21 106. By violating the CMIA, ERC is liable to Plaintiff and Class Members for the
22 greater of (i) actual damages or (ii) \$1,000 per violation. *See Cal. Civil Code § 56.36(b).*
23 Plaintiff and Class Members need not suffer or be threatened with any additional damages. *Id.*

24 107. ERC is also liable for reasonable attorney's fees, litigation costs, injunctive and
25 declaratory relief, and punitive damages in an amount to be determined by a jury.
26
27
28

COUNT IV

**Violation of the Confidentiality of Medical Information Act, Cal. Civ. Code § 56.101
(Plaintiff and Class Against Defendant)**

108. Plaintiff repeats and realleges every allegation set forth in the preceding paragraphs as if set forth herein.

109. California Civil Code § 56.101, subdivision (a) requires that every provider of health care “who creates, maintains, preserves, stores, abandons, destroys, or disposes of medical information shall do so in a manner that preserves the confidentiality of the information contained therein.”

110. Any health care provider who “negligently creates, maintains, preserves, stores, abandons, destroys, or disposes of medical information shall be subject to the remedies and penalties provided under subdivisions (b) and (c) of § 56.36.”

111. ERC is a provider of health care that creates, maintains, preserves, or stores medical information. It failed to maintain, preserve, or store Plaintiff's and Class Members' medical information in a manner that preserves its confidentiality by installing the Pixel on its websites.

112. ERC was at least negligent in failing to maintain the confidentiality of Plaintiff's and Class Members' medical information. ERC owed Plaintiff and Class Members a statutory and common law duty to maintain the confidentiality of their medical information. ERC breached that duty by inputting the Pixel on its website and enabling Meta to intercept the medical information. ERC's breach of its duty directly and proximately caused harm to Plaintiff and Class Members.

113. Meta viewed and used Plaintiff's and Class Members' medical information to generate analytics from Meta that allowed ERC to refine and more effectively advertise to new and existing users. It also viewed and used Plaintiff's and Class Members' medical information to improve ad profiles for each individual.

114. By violating the CMIA, ERC is liable to Plaintiff and Class Members for the greater of (i) actual damages or (ii) \$1,000 per violation. *See* Cal. Civil Code § 56.36(b).

1 Plaintiff and Class Members need not suffer or be threatened with any additional damages. *Id.*

2 115. ERC is also liable for reasonable attorney's fees, litigation costs, injunctive and
3 declaratory relief, and punitive damages in an amount to be determined by a jury.

4 **COUNT V**

5 **Violation of California's Unfair Competition Law (UCL)**
6 **(Plaintiff and Class Against Defendant)**

7 116. Plaintiff repeats and realleges every allegation set forth in the preceding
8 paragraphs as if set forth herein.

9 117. Plaintiff brings this claim individually and on behalf of the Class.

10 118. By placing the Pixel on its website and permitting it to intercept its users'
11 personal and medical information as discussed above, ERC engaged in unlawful and unfair acts
12 and practices prohibited by the UCL.

13 119. ERC did not obtain consent from Plaintiff or the Class to have Meta intercept
14 their personal and medical information. Instead, ERC repeatedly and unambiguously told
15 Plaintiff and the Class that their information would remain "100% confidential."

16 120. Neither Plaintiff nor Class Members received any compensation from any entity
17 in exchange for their personal and medical information.

18 121. ERC's conduct constitutes unfair and unlawful business practices under the
19 UCL. These practices offended established public policy and caused Plaintiff and Class
20 Members to lose money and/or property. The injury to Plaintiff and Class Members outweighs
21 any benefit to consumers or competition.

22 122. Plaintiff seeks injunctive relief ordering ERC to (i) remove the Pixel and any
23 other tool used to collect users' personal or medical information without consent; and (ii)
24 provide notice to Class Members explaining that ERC enabled Meta to intercept their private
25 and/or medical information when using ERC's websites.

COUNT VI

Unjust Enrichment (Plaintiff and Class Against Defendant)

123. Plaintiff repeats and realleges every allegation set forth in the preceding paragraphs as if set forth herein.

124. Through the unlawful disclosure of the private and medical information of Class Members discussed herein, ERC has been unjustly enriched. ERC represented to users that it does not share personal or medical information with third parties and that users' information is "100% Confidential." Yet, ERC imbedded the Pixel on its websites, allowing Meta to obtain private and medical information from users. In exchange, ERC received information and analytics from Meta that allowed it to refine and more effectively advertise to new and existing users, increasing revenue as a result.

125. Class Members were impoverished through ERC's unlawful disclosure of their personal information and medical information. The information disclosed by ERC is some of the most valuable information consumers possess, particularly information concerning the users' medical conditions, history, and treatment. ERC denied Plaintiff and Class Members the value of their private and medical information without any compensation.

126. There is a direct and significant connection between ERC's enrichment and Plaintiff's and Class Members' impoverishment. ERC's unlawful disclosure of Plaintiff's and Class Members' private and medical information to Meta through the Pixel both led to ERC's enrichment and caused Plaintiff's and Class Members' impoverishment.

127. There is no justification for ERC's enrichment. ERC simply placed profit above lawful conduct and representations made to Plaintiff and Class Members. If ERC behaved as promised to users and required by law, then their unjust enrichment would not have occurred.

128. Plaintiff and Class Members have no adequate remedy at law.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the Class, requests the following relief:

1 A. A determination that this action is a proper class action under Federal Rule of
2 Procedure Rule 23, certifying Plaintiff as Class representative, and appointing the undersigned
3 counsel as Class counsel;

4 B. Declaring that ERC violated CIPA by disclosing and/or permitting Meta to
5 intercept and record Plaintiff's and Class Members' communications, which included private
6 and medical information;

7 C. Declaring that ERC violated the CMIA by disclosing Plaintiff's and Class
8 Members' medical information to Meta;

9 D. Declaring that ERC violated the CMIA by intentionally sharing, selling, using
10 for marketing, or otherwise using Plaintiff's and Class Members' medical information for a
11 purpose not necessary to provide health care services to them;

12 E. Declaring that ERC violated the CMIA by failing to maintain Plaintiff's and
13 Class Members' medical information in a manner that preserves its confidentiality by installing
14 the Pixel on its websites;

15 F. Declaring that ERC violated the UCL through its unlawful and unfair business
16 practices alleged herein;

17 G. Declaring that ERC was unjustly enriched by disclosing and/or permitting Meta
18 to intercept and record Plaintiff's and Class Members' private and medical information;

19 H. Awarding damages to Plaintiff and Class Members, including statutory damages,
20 compensatory damages, punitive damages, and pre- and post-judgment interest to the extent
21 permitted by law;

22 I. Permanently enjoining ERC from disclosing Class Members' private and
23 medical information to third parties without consent;

24 J. Permanently enjoining ERC from using information and analytics provided by
25 Meta based on ERC's unlawful disclosure of Class Members' private and medical information;

26 K. Requiring ERC to take reasonable steps to alert all users whose private or
27 medical information was unlawfully disclosed to Meta or any other third party;

L. Requiring ERC to alert the California Attorney General's office that it unlawfully disclosed or permitted Meta to intercept and record the private and medical information of tens of thousands of California residents;

M. Awarding attorney's fees, expenses, and taxable costs to the extent permitted by law; and

N. Granting Plaintiff and Class Members such other further relief as the Court deems just and proper to protect their private and medical information.

VIII. JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable as a matter of right.

DATED: February 16, 2024

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